IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA ANDERSON/GREENWOOD DIVISION

Wade Stephney, Jr., #141962,)	C/A No. 8:06-2050-MBS-BHH
Plaintiff,)	OPINION AND
V.)	ORDER
Ronaldo Myers, Director of)	
Alvin S. Glenn Detention Center,)	
Defendant.)	
)	

Plaintiff Wade Stephney, Jr. is an inmate in the custody of the South Carolina Department of Corrections ("SCDC"). He is currently housed at the Lee Correctional Institution. Plaintiff originally filed the captioned action pursuant to 42 U.S.C. § 1983 to challenge the constitutionality of conditions of his confinement while housed at the Alvin S. Glenn Detention Center ("ASGDC"). Specifically, Plaintiff alleged that he was denied proper and adequate medical treatment by staff of the Columbus County Detention Center ("CCDC") in Whitesville, North Carolina and staff of ASGDC during his transportation from CCDC to ASGDC. Plaintiff alleged that his prescription medications were "confiscated, lost, missing, stolen" by the medical staff of CCDC or ASGDC. (Compl. at 1.) Plaintiff also appeared to request removal of a pending state criminal case to federal court. On August 7, 2006, Plaintiff was ordered to bring this action into proper form.

On August 11, 2006, Plaintiff filed an amended complaint. In the amended complaint, Plaintiff cites to various federal and state statutes and discusses extradition and interstate agreements regarding detainers. The amended complaint appears to be Plaintiff's attempt to convert this action into one for federal habeas corpus relief based on violations of the Interstate Agreement on Detainers, codified at S.C. Code Ann. § 17-11-10. Plaintiff seeks relief in the form of release from

detention and custody.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 DSC, this matter was referred to United States Magistrate Bruce Howe Hendricks for pretrial handling. The Magistrate Judge reviewed the *pro se* complaint pursuant to the provisions of 28 U.S.C. §§ 1915, 1915A, and the Prison Litigation Reform Act. The Magistrate Judge filed a Report and Recommendation on December 20, 2006. ("Report and Recommendation.") The Magistrate Judge recommended that the complaint be summarily dismissed without prejudice and without issuance and service of process. The Magistrate Judge found that Plaintiff appeared to have abandoned the medical claims he asserted in the original complaint and that removal under 28 U.S.C. § 1441 was not applicable to criminal cases. Additionally, the Magistrate Judge found that even if Plaintiff's amended complaint were construed to be a petition for writ of habeas corpus brought under 28 U.S.C. § 2241, that this action should be dismissed without prejudice because Plaintiff failed to exhaust available state remedies.

The Magistrate Judge makes only a recommendation to the court. The recommendation has no presumptive weight. Mathews v. Weber, 423 U.S. 261, 270 (1976). The responsibility for making a final determination remains with this court. Id. The district court may accept, reject, or modify, in whole or in part, the Magistrate Judge's recommendation or may recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). The district court is obligated to conduct a *de novo* review of every portion of the Report to which objections have been filed. Id.

On January 4, 2007, Plaintiff filed objections to the Report and Recommendation. ("Plaintiff's Objections.") Plaintiff's objections generally repeat the allegations asserted in his amended complaint. The court need not conduct a *de novo* review when a party makes only general

and conclusory objections that do not direct the court to a specific error in the Magistrate Judge's proposed findings and recommendations. <u>Orpiano v. Johnson</u>, 687 F.2d 44, 47-48 (4th Cir. 1982). After thorough review of the Report and Recommendation, the Plaintiff's Objections, the record in its entirety and examining the applicable law, the court adopts the Report and Recommendation and incorporates it by reference. As such, Plaintiff's amended complaint is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/ Margaret B. Seymour

Margaret B. Seymour

United States District Court

Columbia, South Carolina May 8, 2008

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.